

Appl. No. 09/438,431  
Amdt. Dated September 15, 2004  
Reply to Office action of June 15, 2004  
Attorney Docket No. P12817-US1  
EUS/J/P/04-3029

### **REMARKS/ARGUMENTS**

#### **Amendments**

The Applicants have amended claims 2-3; 5, 9-11, and 15-17. Claims 1, 7-8 and 21-25 are canceled. Accordingly, claims 2-3, 5-6, 9-20 are pending in the application. Amendments to the claims are made to properly and distinctly claim the Applicant's invention and no new matter is added. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

#### **Examiner Objections - Claims**

Claims 5-6 and 11-14 were objected to as to being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicant has amended claims 5 and 11 to include the limitations of Independent claims 1 and 7, which were canceled.

#### **Allowable Subject Matter**

The Applicant notes with appreciation the conditional allowance of claims 5-6 and 11-14. As the Examiner has suggested, claims have been rewritten in independent form including all limitations of the base claims and any intervening claims. Amendments were made to improve the readability and further define the scope of the Applicant's invention.

#### **Claim Rejections – 35 U.S.C. § 103 (a)**

Claims 1-3, 7-10 and 15-25 were rejected under 35 U.S.C §103(a) as being unpatentable over Gossett Dalton, Jr. et al. (US 6,426,955 hereinafter Dalton) in view of Alperovich et al., (US Patent no. 6,600,738). The Applicant has canceled claims 1, 7-8 and 21-25 rendering moot the rejection of these claims. The Applicant respectfully traverses the rejection of the remaining claims 2-3, 9-10 and 15-20.

Regarding claims 2-3, the Applicant has amended claim 5, which contains allowable limitations, to include the limitations of claim 1. Claim 5 is now independent

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containing allowable limitations and claims 2-3 now depend from claim 5. The Applicant respectfully submits that claims 2-3 also contain the same allowable limitations of independent claim 5, as stated in paragraph 3 of the Detailed Action. The Applicant respectfully requests the withdrawal of the rejection of claims 2-3.

Regarding claims 9-10, the Applicant has amended claim 11, which contains allowable limitations, to include the limitations of claim 7. Claim 11 is now independent with allowable limitations and claims 9-10 are amended to depend from claim 11. The Applicant respectfully submits that claims 9-10 also contain the same allowable limitations of claim 11, as stated in paragraph 3 of the Detailed Action. The Applicant respectfully requests the withdrawal of claims 9-10.

Regarding claims 15-20, the Applicant respectfully directs the Examiner's attention to amended claim 15:

15. (Currently Amended) An end device for connecting to an Internet Protocol (IP) network, comprising:  
means for storing a preferred access capability for said end device, said access capability comprising predetermined factors;  
means for communicating with at least one access network-terminating device over an indirect interface, each said access network-terminating device being communicably coupled to an associated access network and each said access network being communicably coupled with said IP network;  
means for comparing said stored preferred access capability to an access capability of each of said at least one access network-terminating devices;  
means for selecting a preferred access network-terminating device, according to said comparison, to provide an optimum connection to said access network;  
means for polling to detect if one or more new access network-terminating devices are available to said end device;  
means for determining an access capability for each of the one or more new access network-terminating devices; and  
means for comparing said access capability for each of the one or more detected new access network-terminating devices with said preferred access capability of said end device to determine whether said detected new access network-terminating devices can improve the current connection to said network. (emphasis added)

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As noted in the Detailed Action, the emphasized portions of amended claim 15 are allowable limitations. (Support for the amendment to claim 15 is found on page 8, lines 21-28 to page 9, lines 1-13, page 15, lines 13-18). Claims 16-20 depend from claim 15 and contain the same allowable limitations. The Applicant respectfully requests the withdrawal of the rejection of claim 15-20.

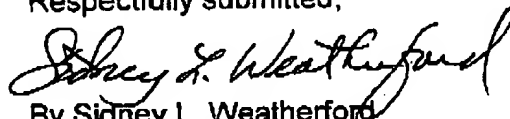
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### CONCLUSION

In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 2-3, 5-8, and 9-20.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

  
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Date: September 15, 2004

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